

OGC HAS REVIEWED.

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Proposed Legislation

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Approved For Release 2003/12/03 : CIA-RDP75B00380R000800090025-2

Approved For Release 2003/12/03 : CIA-RDP75B00380R000800090025-2

09C 7-1596

SECRET

20 September 1957

MEMORANDUM FOR THE RECORD

SUBJECT: Proposed CIA Legislation

1. Appropriate elements from the DD/S met to consider the basic policy on possible CIA legislation. Present were: Colonel White, DD/S; Mr. Houston, General Counsel; [redacted]

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2. Colonel Edwards was advised that general amendments to the Internal Security laws or the Espionage laws were not within the scope of this discussion.

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3. [redacted] gave a brief rundown of the types of Congressional attitudes to be encountered in connection with possible legislation. Following this we then made a point by point review of the provisions in the previous draft. In general it was concluded that weighing the difficulties and problems of introducing new legislation against the need for additional authorities, it was determined that probably we should not make any effort on any of the authorities except for the retirement legislation which will be considered separately. It was recognized that certain of the provisions were simply efforts to tidy up the existing law whereas others were to secure authorities which have been considered by the administration to be desirable for all overseas employees. In other cases the Agency has determined that it would exercise its broad authorities to apply certain of the benefits. These will be reviewed in detail with a possible idea of placing them as specific items in the forthcoming budget. This action in effect makes such authorities a part of our appropriation act. The Office of General Counsel will consider this matter further with the Comptroller's office.

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4. It is believed that the DCI regards the retirement provisions as highly desirable in one form or another. It is believed appropriate then that the Director be briefed in general on these legislative matters prior to the visit of the three Civil Service Commissioners for a luncheon which is to be held in the near future. In this manner it is hoped to secure more detailed information on his thinking on the principles of liberalized retirement for CIA employees.

5. In the meantime Legislative Counsel will attempt to determine the administration's position on various employee benefits for overseas employees generally.

25X1A ~~SECRET~~

Legislative Counsel

cc: DD/S

Comptroller

OGC Subject

✓ Leg. C. Subject

OGC Chrono.

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EDUCATIONAL BENEFITS FOR DEPENDENTS INCLUDING TRAVEL

CIA paid for ^{local} schooling on basis of cover prior to 10 July 1955 after which

CIA adopted:

25X1A

1. ([redacted]) 901(1)(IV) of Foreign Service Amendments of 1955 re elementary and secondary schooling abroad. (See OGC memos attached dated 12 July 1955 and 12 October 1955, respectively.)
2. authority per Foreign Service Act Amendments of 1955 Section 911(9) was approved by DCI to transport dependents in foreign areas to and from U.S. for secondary and college education (See DD/S memo of 28 June 1956 to DCI who approved 5 July 1956).
3. such transportation for [redacted] by General Counsel Memo of 27 August 1956 to Acting DCI with concurrence of DD/S approved effective 1 September 1956. 25X1A

CIA seeks legislation to pick up 901 and 911 and others as amended. Civil Service Commission OK's for "foreign areas." It appears though not clear, that their definition of "abroad" would include trust territories.

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12 October 1955

MEMORANDUM FOR: Director of Personnel

SUBJECT: Educational Allowances

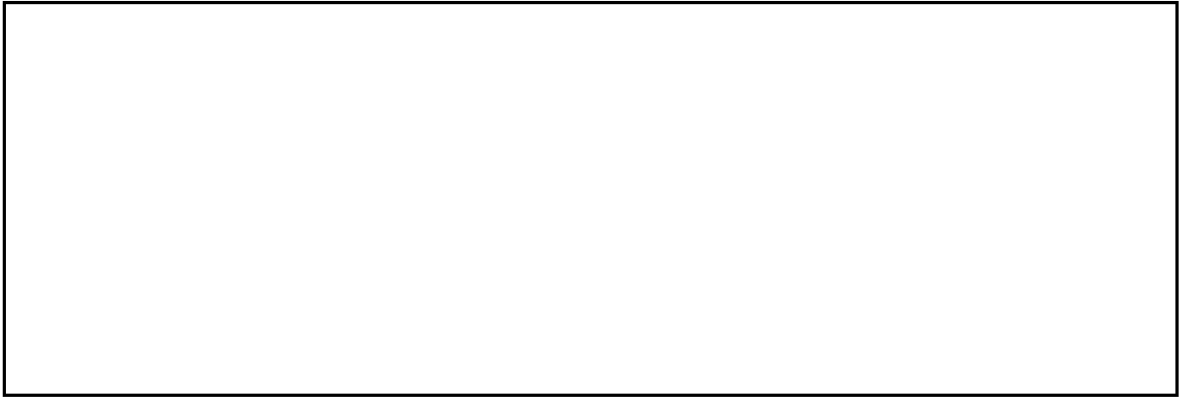
and 16 Nov. 55

1. On Tuesday, 11 October, I discussed with Mr. Lyle Fisher, General Counsel to the Comptroller General, the questions raised by the Comptroller General's letter of September 28, 1955, to the Secretary of State (B-125514) on payment of educational allowances by certain agencies other than the Department of State. I told Mr. Fisher we had reviewed the questions, as far as this Agency was concerned, in July and after discussion with his Office had come to the conclusion that there was no legal objection to the payment of educational allowances to vouchered personnel of this Agency. I said that we were somewhat concerned that the questions raised with the Department of State might by implication raise a question on the legal ruling we had given in July. Mr. Fisher said he recalled considering our case early in the summer and he had felt then and still feels that we are in a different position from the agencies about which he is concerned.

FOIAB5

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151
LAWRENCE R. HOULTON
General Counsel

cc: DD/S
AD/Operations
Comptroller
Chief, Contract Personnel
Division
OGC chrono
✓ OGC subject - Pay & Allowances-10
OGC:LRH:jeb

Pay Allow - 10

200-1531
13 July

12 July 1955

MEMORANDUM FOR: Deputy Director (Support)

SUBJECT: Education Allowances Under the Foreign Service Act, as amended by the Foreign Service Act Amendments of 1955 (P.L. 86 - 84th Congress)

REFERENCE: Memorandum from OGC to DD/S, Dated 1 July, Same Subject

1. In the course of preparing referenced opinion concerning the authority of this Agency to pay to our vouchered personnel the education allowances authorized under Section 901(2) of the Foreign Service Act, as amended by P.L. 86 (Foreign Service Act Amendments of 1955) we solicited the views of Mr. John Moore of the General Accounting Office. The conclusion of this Office that CIA is without authority to pay to vouchered personnel the education allowances authorized under Section 901(2) of the Foreign Service Act, as amended, was based on the Supreme Court decision and other authorities cited in reference and on our conversations with Mr. Moore.

3. In view of the foregoing and of the responsibilities of the General Accounting Office as the accounting authority for the Government, this Office perceives no legal objection to the payment of education allowances to our vouchered personnel.

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OGC:RHL:ss

Office of General Counsel

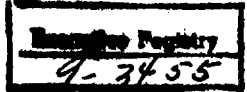
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Subject: Approved For Release 2003/12/03 : CIA-RDP75B00380R000800090025-2

Office of Personnel, Asst. Dir./OO

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Oct. 196



UNITED STATES CIVIL SERVICE COMMISSION
Washington 25, D. C.

May 9, 1957

Honorable Percival F. Brundage
Director
Bureau of the Budget
Washington 25, D. C.

Dear Mr. Brundage:

The Commission has your letter of March 27th, requesting its comments on draft bill "To amend the Central Intelligence Agency Act of 1949, as amended, and for other purposes."

Section 5 of the draft would add a new section 9 to the Central Intelligence Agency Act providing special retirement privileges for certain employees of that Agency. Benefited would be those persons with at least 10 years' Agency service, of which not less than 5 years are performed outside the continental United States, who have served outside the continental United States during at least 40% of Agency employment prior to age 50.

Each employee meeting these conditions would be given the option of retiring on an unreduced annuity under the Civil Service Retirement Act, if the Agency Director approves, at any time after attaining age 50 and completing 20 years of Government service. In computing annuity rate in such case the employee would be allowed time credit at the rate of $1\frac{1}{4}$ years for each year of Agency service outside the continental United States.

If this amendment is considered in its present form, the words "as amended, (Act of 22 May 1920, 5 U.S.C. 691)" should be deleted to provide a correct reference. However, if this retirement proposal is to receive the attention of Congress, we strongly urge that it be redrafted as an amendment to the Civil Service Retirement Act. To accomplish the result sought by its proponents, section 5 of the draft bill should be changed to read:

Section 6 of the Civil Service Retirement Act is amended by adding at the end thereof the following new subsection:

"(g) Any employee of the Central Intelligence Agency who (1) completes ten years of service with that Agency, of which at least five years are performed outside the continental United States,

- 2 -

(2) serves outside the continental United States during at least 40% of his employment with that Agency prior to age fifty, and (3) attains the age of fifty years and completes twenty years of service, may, if the Director of the Agency approves, voluntarily retire from the service and be paid an annuity computed as provided in section 9: Provided, that in determining length of service for purposes of computing the amount of such annuity, credit shall be allowed at the rate of $1\frac{1}{4}$ years for each year of Agency service performed outside the continental United States."

The Commission cannot agree to enactment of the proposal, either in its original form or if amended as suggested. No reason is apparent why the earlier retirement right should be allowed persons working overseas for a particular Government agency when other Federal employees serving overseas under similar handicaps do not enjoy this special privilege. The provision for extra credit is an item entirely foreign to the concept of the civil service retirement law. Credit in excess of full calendar time has never been allowed during its nearly 37 years of operation, and adoption of such credit provision could be construed only as a discriminatory reward for overseas service of a particular type.

Our inability to agree to enactment of the proposal advanced by the Central Intelligence Agency does not stem from lack of sympathy with the objective sought to be attained. The problem of retirement policy for overseas employees of the United States has, from time to time, been studied and considered by various groups, including a White House Personnel Task Force, the White House Office, the Committee on Retirement Policy for Federal Personnel, the Civil Service Commission, and the Bureau of the Budget. In addition, Commission personnel have participated in a number of discussions in the past few years at which different agencies have been represented.

None of these studies, considerations, or discussions has resulted in adoption of an administration policy on the subject of retirement benefits for overseas personnel. No one proposal, or combination of proposals so far considered, has found general acceptance as offering a satisfactory solution.

We think the retirement problems concerning Central Intelligence Agency employees should not be isolated and considered independently of similar problems affecting overseas employees of all other agencies. The Commission has consistently leaned toward adoption of a general definition of overseas employees for retirement purposes, and consideration of provisions for earlier retirement and uniformly calculated annuities for all such employees, regardless of the agency or agencies in which employed.

In view of the urgency expressed by the Central Intelligence Agency, Commission personnel will be available at the convenience of your office

- 3 -

to participate in further discussions and attempts to find workable solutions to existing problems in this area.

By direction of the Commission:

Sincerely yours,

Barris Ellsworth
Chairman

SECRET

C-O-P-Y

29 June 1956

MEMORANDUM FOR: Director of Central Intelligence

SUBJECT: (a) Payment for Storage of Personnel Effects;
Personnel Assigned to Non-Emergency Areas
(b) Payment of Dependents' Travel Expenses; Travel
to U.S. for Education

1. This memorandum suggests action on the part of the DCI. Such requested action is contained in paragraph 5.

2. The Agency's specific statutory authority to pay travel, allowances, and related expenses of employees does not authorize us to pay for the cost of storing employees' furniture, household and personal effects except when an employee is assigned to a foreign post in an emergency area. As a result, many employees assigned to posts in the western hemisphere and in Western Europe must either pay the cost of storing their personal effects or ship the effects to the post at Government expense even though they have no use for the effects at the post.

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Memorandum for Director of Central Intelligence
from Deputy Director (Support) dated

CONCUR:

Deputy Director (Plans)

Comptroller

Office of Personnel

Office of General Counsel

The recommendation in paragraph 5
is approved.

Allen W. Dulles
Director

OGC:JIM:inz
cc: Orig & 1 - Addressee
DD/S (2)
DD/P
Comptroller
Office of Personnel
OGC

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STORAGE OF HOUSEHOLD EFFECTS

CIA has Statutory Authority

Public Law 110 Section 5(a)(1)(D) to pay for storing furniture where assigned to post outside U.S., territories and possessions - where can't take or use because of emergency conditions, similar to Foreign Service Act.

CIA has adopted:

1. for employees in foreign non-emergency areas, authority to pay for storage of household effects. (See attached DD/S Memo of 29 June to DCI approved 5 July 1956.)
2. same authority with respect to employees . (See attached General Counsel memo of 27 August 1956 to Acting DCI approved effective 1 September 1956)

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CIA seeks legislation per draft of 21 March 1957 to permit storage regardless of ~~existence~~ of emergency - this has been available to Foreign Service in Appropriations Acts (but not in Foreign Service Act). Civil Service Commission has expressed policy approval for foreign areas. Appears Civil Service Commission would accept definition of "abroad" to include Trust Territories. No need to push this phase of legislation.

7 Aug
29 June 1956

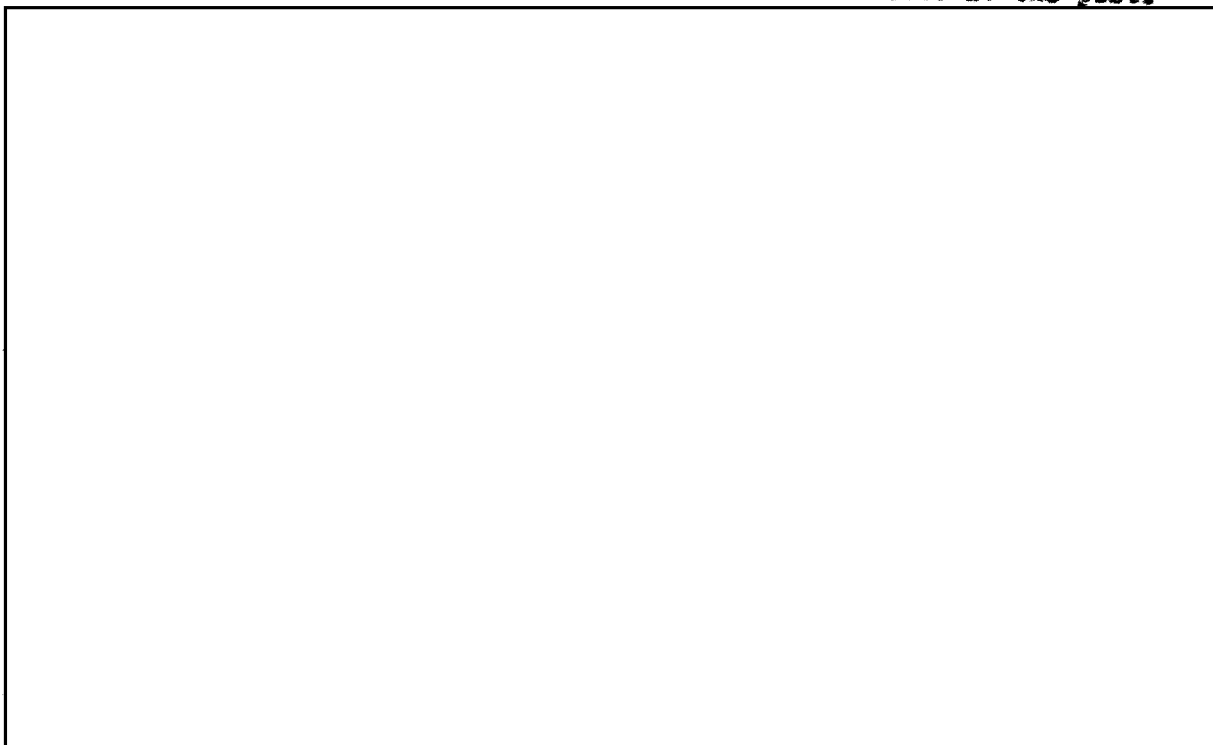
MEMORANDUM FOR: Director of Central Intelligence

SUBJECT: (a) Payment for Storage of Personal Effects;
Personnel Assigned to Non-Emergency Areas
(b) Payment of Dependents' Travel Expenses; Travel
to U. S. for Education

1. This memorandum suggests action on the part of the DCI. Such requested action is contained in paragraph 5.

2. The Agency's specific statutory authority to pay travel, allowances, and related expenses of employees does not authorize us to pay for the cost of storing employees' furniture, household and personal effects except when an employee is assigned to a foreign post in an emergency area. As a result, many employees assigned to posts in the western hemisphere and in Western Europe must either pay the cost of storing their personal effects or ship the effects to the post at Government expense even though they have no use for the effects at the post.

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See Hamilton
memo to DCI
27 Aug 56 for
auth for dispatch

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SECRET

**Memorandum for Director of Central Intelligence
from Deputy Director (Support) dated**

CONCUR:

Deputy Director (Plans)

Comptroller

Office of Personnel

Office of General Counsel

**The recommendation in paragraph 5
is approved.**

**Allen W. Dulles
Director**

OGC:JEM:ma

cc: Orig. & 1 - Addressee

DD/S (2)

DD/P

Comptroller

Office of Personnel

OGC

1 - Signer ✓

1 - OGC Chrono

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1 - Subject - Transport

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HOME LEAVE

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CIA seeks legislation to get Foreign Service Act and Annual and Sick Leave Act of 1951 authorities to provide travel and statutory leave. Civil Service Commission has expressed policy approval of this.

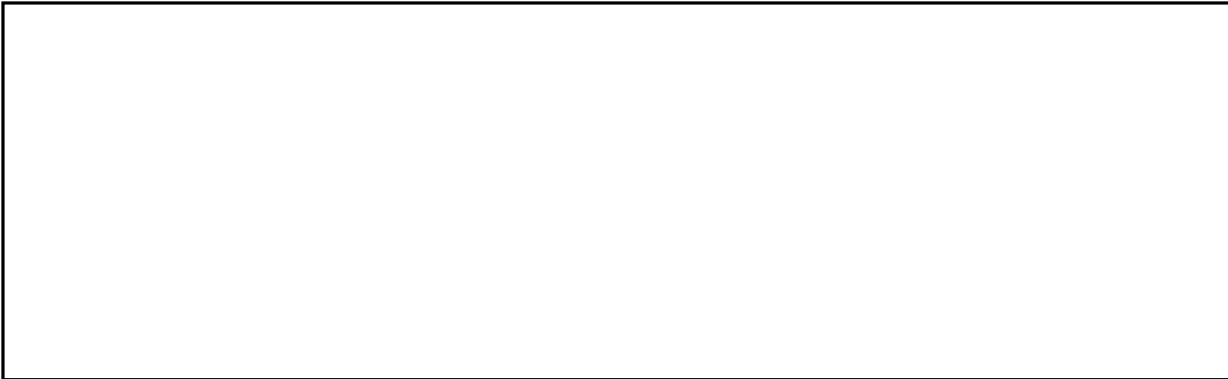
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PROCUREMENT



CIA seeks legislation (draft of 21 March 1947) to allow it to use the
Armed Forces Procurement Act.

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Approved For Release 2003/12/03 : CIA-RDP75B00380R000800090025-2

RETIREMENT

CIA has only Civil Service retirement rights.

CIA has sought via proposed legislation (dated 31 October 1956) special retirement benefits which were rejected as a matter of policy by the Civil Service Commission in a letter to the Bureau of the Budget, 9 January 1957.⁶ They reject extra credit for service at an unhealthful post, etc. Their reason is that investigative personnel get no such extra credit and neither do Foreign Service personnel unless they waive their post differential. The Commission suggested developing something more in line with investigative personnel retirement benefits.

Subsequent to this our 21 March 1957 draft (the latest draft) of proposed legislation was submitted to Bureau of the Budget who in turn obtained opinions from the Civil Service Commission and the White House.

Since the Director has taken a personal interest in additional retirement benefits it is suggested that the attached two letters (9 May and 13 May 1957) to the Bureau of the Budget be read in order to get full background. It will be noted that each letter is signed by Harris Ellsworth. However, in his letter of May 13 from the White House he signs as the Presidential Advisor on Personnel Matters. In his letter of May 9 from the Civil Service Commission he signs as Chairman of the Commission. It will be noted that the Civil Service suggests extra credit for Foreign Service while the White House is against such credit. Letter of January 9, 1956 is long and you may have read it.

Three proposed drafts were submitted by the Civil Service Commission at the working level, 6 June 1957. These were not cleared with the Commission. The one which they prefer is a proposed amendment to the Civil Service Act and reads as follows:

Draft A

Section 1 of the Civil Service Retirement Act is amended by adding at the end thereof the following new subsection:

"(t) The term 'overseas career employee' shall mean an employee who is a citizen of the United States who has completed at least ten years of civilian service in a foreign country and who has, within the six-year period immediately preceding separation, completed at least two years of civilian service in a foreign country during which he was subject to this Act."

RETIREMENT (Cont.)

Section 6 of the Civil Service Retirement Act is amended by adding at the end thereof the following new subsection:

"(g) Any overseas career employee who attains the age of fifty years and completes twenty years ^{of} service may, if the head of his agency approved, voluntarily retire from the service and be paid an annuity computed as provided in section 9."

Section 9(e) of the Civil Service Retirement Act is amended by inserting after the figure "6(c)" the words "or 6(g)."

CIA's latest draft proposed an amendment to the CIA Act as follows:

"Section 9(a) Any employee who attains the age of fifty years and completes twenty years of creditable service under the Civil Service Retirement Act, as amended, (Act of 22 May 1920, 5 U.S.C. 691) may, if the Director approves, voluntarily retire and be paid an annuity computed as provided in Section 9(a) of that Act: Provided, That (1) at least ~~ten~~ years of such service has been with the Agency, (2) at least five years of such service has been with the Agency outside the continental United States and (3) at least 40% of such service with the Agency prior to age fifty has been served outside the continental United States.

"Section 9(b) Any employee retiring under the provisions of this Section shall, for the purpose of computing the amount of the annuity under the Civil Service Retirement Act, be credited with one and one quarter years of service for each year of Agency service outside the continental United States. Such additional credits shall be granted proportionately for fractional years of service: Provided, That the annuity payable to an employee retiring under the provisions of this Section shall not be reduced under the provisions of Section 9(d) of the Civil Service Retirement Act."

This draft will appear to be at least as strict as that proposed by the Commission. However, it still has the disadvantage of being an amendment to the specific CIA Act, where as the Commission has specifically stated that they prefer, whenever possible, legislation of general type.

RETIREMENT (Cont)

The people at the working level submitted two alternative drafts, one of which reads as follows:

Draft B

"The Director shall establish and administer an independent retirement and disability system for employees of the Central Intelligence Agency in accordance with the provisions of the Foreign Service Act."

They submitted the second alternative draft which I think is least desirable to both CIA and the Commission and it is as follows:

Draft C

Section 6 of the Civil Service Retirement Act is amended by adding at the end thereof the following new subsection:

"(g) Any employee of the Central Intelligence Agency who (1) is a citizen of the United States, (2) has had at least ten years of service in a foreign country or in the Trust Territories of the Pacific, of which at least two years have been within the six-year period immediately preceding separation, (3) has been an employee of the Central Intelligence Agency during at least five years of such service, and (4) attains the age of fifty years and completes twenty years of service, may, if the head of his agency approves, voluntarily retire from the service and be paid an annuity computed as provided in section 9."

Section 9(e) of the Civil Service Retirement Act is amended by inserting after the figure "6(c)" the words "or 6(g)."

All the material referred to above has been presented to the Career Service Council.

In view of the firm attitude taken by the Bureau of the Budget and Civil Service Commission it is felt that we suggest to the Director that we may wish to "give" a little on the point of preparing general rather than CIA legislation.

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Journal

Office of Legislative Counsel

Monday - 3 June 1957

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25X1A

1. Messrs. [redacted] and I met with representatives of the Bureau of the Budget and Civil Service Commission to discuss CIA legislative proposals for accelerated retirement for overseas employees. There remain a number of points of difference. The Civil Service Commission still appears to be opposed to any system which cannot be applied generally throughout the government, or at least to a larger group of employees than those of one agency. While agreeing in principle with some of the Commission's points, I believe that the Bureau will support us in a proposal similar, though not identical, to the proposals heretofore advanced. The Bureau is submitting a redraft of possible legislation, and we are to

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THE WHITE HOUSE

WASHINGTON

May 13, 1957

Dear Mr. Jones:

Thank you for letting us review the latest draft bill "To amend the Central Intelligence Agency Act of 1949." Since we have previously commented at length on Central Intelligence Agency's proposals and many of the provisions of the current draft are in line with our suggestions, we are confining our present comments to Sec. 5 which covers special retirement provisions for their employees.

As indicated in our letter of February 15, 1957, this office does not approve the provision to grant extra service credits under the conditions specified. CIA states that such extra service credits, at the rate of one year of extra credit for every four years served abroad or fraction thereof, would result in annuities for employees retiring under this section nearly equal to those granted to Foreign Service Officers. However, according to our calculation, it would appear that when an employee has completed eight years or more of service overseas, his annuity would be progressively higher, depending upon the total amount of time served abroad, than that payable to Foreign Service Officers. We consider this undesirable since it would create a further distinction among employees serving overseas and provide a premium for service with one particular agency, whereas the objective of this Administration is to achieve a greater degree of consistency.

As you know, this office has long felt that special consideration should be given to civilian employees of the Government who have served for long periods in foreign countries and who in effect have made a career of service overseas. It has been our thought that certain provisions now available to Foreign Service Officers should be extended to such individuals. For example, for employees who have completed ten or more years of civilian service in foreign countries, it would seem reasonable to apply the two per cent rate in computing their annuities, and further, to permit them to retire on full annuities in the event of involuntary separation, not for cause, at age 50 with 20 or more years of creditable service including 10 years of civilian service in foreign countries.

If Central Intelligence Agency were to submit a proposal along these lines, including a provision covering voluntary retirement at

- 2 -

age 50 with 20 years total service, of which not less than 10 years covers civilian service in foreign areas, including 5 years overseas service for CIA, and authorizing retirement at full annuity computed at the 2% rate, subject to approval of such retirement by the CIA Director, this office would not object thereto. Such a proposal would be more nearly in line with the provisions of the Foreign Service Retirement System, and would lend itself to possible extension at some future date to employees of other agencies who have served long periods in foreign areas.

Sincerely,

/s/ Harris Ellsworth

Harris Ellsworth

Mr. Roger W. Jones
Assistant Director for Legislative Reference
Executive Office of the President
Bureau of the Budget
Washington, D. C.

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UNITED STATES INFORMATION AGENCY

Budget determines to relate to the said functions and to be required by the officer or agency whereto the functions concerned are delegated or assigned by this order, for the performance thereof, shall be transferred, consonant with law, to such latter officer or agency. Such further measures and dispositions as the Director of the Bureau of the Budget shall deem to be necessary in order to effectuate the transfers provided for in this section shall be carried out in such manner as he shall direct and by such agencies as he shall designate.

Sec. 403. Prior orders and actions. (a) Executive Order No. 10300 of November 9, 1951 (16 F. R. 11203), as amended,²⁷ exclusive of sections 7 and 9 thereof, and Executive Order No. 10338 of April 4, 1952 (17 F. R. 3009),²⁸ are hereby superseded.

(b) Nothing in this order shall affect Executive Order No. 10062 of June 6, 1949,²⁹ as heretofore amended.

(c) To the extent that any provision of any prior Executive order is inconsistent with the provisions of this order, the latter shall control and such prior provision is amended accordingly.

(d) All orders, regulations, rulings, certificates, directives, agreements, contracts, delegations, determinations, and other actions of any officer or agency of the Government relating to any function affected by this order shall remain in effect except as they are inconsistent herewith or are hereafter amended or revoked under proper authority.

Sec. 404. Definition. As used in this order, the word "functions" embraces duties, powers, responsibilities, authority, and discretion.

Sec. 405. Effective date. This order shall become effective on August 1, 1953.

DWIGHT D. EISENHOWER

THE WHITE HOUSE,
August 1, 1953.

No. 10477

Aug. 4, 1953, 18 F. R. 4540

AUTHORIZING THE DIRECTOR OF THE UNITED STATES INFORMATION AGENCY TO EXERCISE CERTAIN AUTHORITY AVAILABLE BY LAW TO THE SECRETARY OF STATE AND THE DIRECTOR OF THE FOREIGN OPERATIONS ADMINISTRATION

By virtue of the authority vested in me by section 2 (d) of Reorganization Plan No. 8 of 1953,³⁰ and as President of the United States, it is ordered as follows:

Section 1. Determination. It is hereby determined that it is necessary, in order to carry out the functions transferred to the Director of the United States Information Agency (hereinafter referred to as the Director) by the provisions of subsections (a), (b), and (c) of section 2 of the said Reorganization Plan No. 8 of 1953, to authorize the Director to exercise, in relation to the respective functions so transferred, the authority specified in sections 2 and 3 hereof.

Sec. 2. Authority under the Foreign Service Act and related laws. (a) Except as provided in section 2 (c) of this order, the Director is authorized to exercise, with respect to Foreign Service Reserve officers, Foreign Service staff officers and employees, and alien clerks and employees employed to perform the said transferred functions, the authority available to the Secretary of State under the Foreign Service Act of 1946, 60 Stat. 999,³¹ as heretofore or hereafter amended, or under any other provision of law pertaining specifically, or generally applicable, to Foreign Service Reserve officers, Foreign Service staff officers and employees, and

27. 22 U.S.C.A. § 1652 note.

28. 22 U.S.C.A. §§ 1401, 1409, 1411, 1414, 1531, 1536, 1558, 1658 notes.

29. U.S. Code Cong. Service 1949, p. 2752.

30. 1953 U.S. Code Cong. & Adm. News, p. 897.

31. 22 U.S.C.A. § 801 et seq.

EXECUTIVE ORDERS

alien clerks and employees, including the authority to prescribe regulations, not inconsistent with applicable laws, incident to the exercise of such authority. The Director is further authorized to exercise in the performance of the said transferred functions the authority available to the Secretary of State under sections 561 and 562 of the Foreign Service Act of 1946, as amended,³² and under sections 1021 through 1071 thereof.³³

(b) The prohibitions and requirements contained in sections 1001 through 1005 and section 1011 of the Foreign Service Act of 1946, as amended,³⁴ shall be applicable to the personnel of the United States Information Agency.

(c) There are hereby excluded from the authority granted to the Director by section 2 (a) of this order the following-described powers now vested in or delegated to the Secretary of State:

(1) The authority of the Secretary of State to make recommendations to the President for the commissioning of Foreign Service Reserve officers as diplomatic or consular officers, or both, under section 524 of the Foreign Service Act of 1946, as amended,³⁵ and to make recommendations for the commissioning of Foreign Service staff officers or employees as consuls under section 533 of such act,³⁶ and the authority of the Secretary to commission Foreign Service staff officers as vice consuls under the said section 533. The Director may, whenever he considers it necessary to carry out the functions transferred to him by the said Reorganization Plan No. 8 of 1953, request the Secretary of State to recommend to the President that persons employed under section 2 (a) of this order be commissioned as diplomatic or consular officers, or both, or to grant such persons diplomatic or consular commissions, as appropriate.

(2) The authority vested in the President by sections 443 and 901 of the Foreign Service Act of 1946, as amended,³⁷ which has been delegated to the Secretary of State by Executive Orders Nos. 10000 and 10011,³⁸ and successive amendments thereof, to designate places, fix rates, and prescribe regulations governing the payment of additional compensation, known as "foreign post differential", to employees in foreign areas of executive departments and independent establishments of the United States, and to designate places, fix rates, and prescribe regulations, with respect to civilian employees of the Government serving abroad, governing living-quarters allowances, cost-of-living allowances, and representation allowances.

Sec. 3. Authority under various other statutes. The Director is authorized to exercise the authority available to the Secretary of State or the Director of the Foreign Operations Administration, as the case may be, under the following-described provisions of law:

(a) The Foreign Service Buildings Act of 1926, as amended (22 U. S. C. 292-300),³⁹ regarding the acquisition, construction, alteration, repair, furnishing, exchange, and disposal of buildings and grounds in foreign countries.

(b) The act of July 9, 1949 (5 U. S. C. 170a, b, and c),⁴⁰ regarding the transfer, acquisition, use, and disposal of international broadcasting facilities.

(c) The act of August 3, 1950 (19 U. S. C. 1201, par. 1628),⁴¹ regarding the importation of sound recordings.

(d) The provisions under the first heading "Salaries and Expenses" of the Department of State Appropriation Act, 1954,⁴² regarding (1) employment of aliens, by contract, for services abroad, (2) purchase of uniforms, (3) cost of transporting to and from a place of storage and the cost of storing the furniture and household effects of an employee of the Foreign Service who is assigned to a post at which he is unable to use his

32. 22 U.S.C.A. §§ 956-957.

33. 22 U.S.C.A. §§ 801 notes, 809, 810;

26 U.S.C.A. § 116.

34. 22 U.S.C.A. §§ 803-807, 808.

35. 22 U.S.C.A. § 924.

36. 22 U.S.C.A. § 938.

37. 22 U.S.C.A. §§ 885, 1131.

38. U.S. Code Cong. Service 1948, p. 2766; U.S. Code Cong. Service 1949, p. 2659.

39. 22 U.S.C.A. §§ 292-300.

40. 5 U.S.C.A. §§ 170a-170c.

41. 19 U.S.C.A. § 1201, par. 1628.

42. 1953 U.S. Code Cong. & Adm. News, p. 408.

E. O. 10477

Title 3—The President

SEC. 402. *Personnel, property, and funds.* So much of the personnel, property, and unexpended balances of appropriations, estimates, and other funds available to any agency wherein there is a transfer or assigned immediately prior to the taking effect of this Executive Order any function which by this order is otherwise delegated or assigned, as the Director of the Bureau of the Budget determines to relate to the said functions and to be required by the officer or agency wherein the functions concerned are delegated or assigned by this order, for the performance thereof, shall be transferred, consonant with law, to such latter officer or agency. Such further measures and dispositions as the Director of the Bureau of the Budget shall deem to be necessary in order to effectuate the transfers provided for in this section, shall be carried out in such manner as he shall direct and by such agencies as he shall designate.

SEC. 403. *Prior orders and actions.* (a) Executive Order No. 10300 of November 1, 1951 (16 F. R. 11263), as amended, exclusive of sections 7 and 9 thereof, and Executive Order No. 10338 of April 4, 1952 (17 F. R. 3009), are hereby superseded.

(b) Nothing in this order shall affect Executive Order No. 10062 of June 6, 1949, as heretofore amended.

(c) To the extent that any provision of any prior Executive order is inconsistent with the provisions of this order, the latter shall control and such prior provision is amended accordingly.

(d) All orders, regulations, rulings, certificates, directives, agreements, contracts, delegations, determinations, and other actions of any officer or agency of the Government relating to any function affected by this order shall remain in effect except as they are inconsistent herewith, or are hereafter amended or revoked under proper authority.

SEC. 404. *Definition.* As used in this order the word "functions" embraces duties, powers, responsibilities, authority, and discretion.

SEC. 405. *Effective date.* This order shall become effective on August 1, 1953.

DWIGHT D. EISENHOWER

THE WHITE HOUSE,

August 1, 1953.

50 CFR, 1952 Supp., p. 63
50 CFR, 1949 Supp., p. 116

EXECUTIVE ORDER 10477

AUTHORIZING THE DIRECTOR OF THE UNITED STATES INFORMATION AGENCY TO EXERCISE CERTAIN AUTHORITY AVAILABLE BY LAW TO THE SECRETARY OF STATE AND THE DIRECTOR OF THE FOREIGN OPERATIONS ADMINISTRATION

By virtue of the authority vested in me by section 2 (d) of Reorganization Plan No. 8 of 1953, and as President of the United States, it is ordered as follows:

SECTION 1. *Determination.* It is hereby determined that it is necessary, in order to carry out the functions transferred to the Director of the United States Information Agency (hereinafter referred to as the Director) by the provisions of subsections (a), (b), and (c) of section 2 of the said Reorganization Plan No. 8 of 1953, to authorize the Director to exercise, in relation to the respective functions so transferred, the authority specified in sections 2 and 3 hereof.

SEC. 2. *Authority under the Foreign Service Act and related laws.* (a) Except as provided in section 2 (c) of this order, the Director is authorized to exercise, with respect to Foreign Service Reserve officers, Foreign Service staff officers and employees, and alien clerks and employees employed to perform the said transferred functions, the authority available to the Secretary of State under the Foreign Service Act of 1946, 60 Stat. 999, as heretofore or hereafter amended, or under any other provision of law pertaining specifically or generally applicable to Foreign Service Reserve officers, Foreign Service staff officers and employees, and alien clerks and employees, including the authority to prescribe regulations, not inconsistent with applicable laws, incident to the exercise of such authority. The Director is further authorized to exercise in the performance of the said transferred functions the authority available to the Secretary of State under sections 561 and 562 of the Foreign Service Act of 1946, as amended, and under sections 1021 through 1072 thereof.

(b) The prohibitions and requirements contained in sections 1001 through 1005 and section 1011 of the Foreign Service Act of 1946, as amended, shall be applicable to the personnel of the United States Information Agency.

(c) There are hereby excluded from the authority granted to the Director by

infra.

Chapter II—Executive Orders

E. O. 10477

section 2 (a) of this order the following-described powers now vested in or delegated to the Secretary of State:

(1) The authority of the Secretary of State to make recommendations to the President for the commissioning of Foreign Service Reserve officers as diplomatic or consular officers, or both, under section 524 of the Foreign Service Act of 1946, as amended, and to make recommendations for the commissioning of Foreign Service staff officers or employees as consuls under section 533 of such act, and the authority of the Secretary to commission Foreign Service staff officers as vice consuls under the said section 533. The Director may, whenever he considers it necessary to carry out the functions transferred to him by the said Reorganization Plan No. 8 of 1953, request the Secretary of State to recommend to the President that persons employed under section 2 (a) of this order be commissioned as diplomatic or consular officers, or both, or to grant such persons diplomatic or consular commissions, as appropriate.

(2) The authority vested in the President by sections 443 and 901 of the Foreign Service Act of 1946, as amended, which has been delegated to the Secretary of State by Executive Orders Nos. 10000 and 10011, and successive amendments thereof, to designate places, fix rates, and prescribe regulations governing the payment of additional compensation, known as "foreign post differential", to employees in foreign areas of executive departments and independent establishments of the United States, and to designate places, fix rates, and prescribe regulations, with respect to civilian employees of the Government serving abroad, governing living-quarters allowances, cost-of-living allowances, and representation allowances.

Sec. 3. Authority under various other statutes. The Director is authorized to exercise the authority available to the Secretary of State or the Director of the Foreign Operations Administration, as the case may be, under the following-described provisions of law:

(a) The Foreign Service Buildings Act of 1926, as amended (22 U. S. C. 292-300), regarding the acquisition, construction, alteration, repair, furnishing, exchange, and disposal of buildings and grounds in foreign countries.

(b) The act of July 9, 1949 (5 U. S. C. 170a, b, and c), regarding the transfer,

acquisition, use, and disposal of international broadcasting facilities.

(c) The act of August 3, 1950 (19 U. S. C. 1201, par. 1628), regarding the importation of sound recordings.

(d) The provisions under the first heading "Salaries and Expenses" of the Department of State Appropriation Act, 1954, regarding (1) employment of aliens, by contract, for services abroad, (2) purchase of uniforms, (3) cost of transporting to and from a place of storage and the cost of storing the furniture and household effects of an employee of the Foreign Service who is assigned to a post at which he is unable to use his furniture and effects, under such regulations as the Secretary of State may prescribe, (4) dues for library membership in organizations which issue publications to members only, or to members at a price lower than to others, (5) examination of estimates of appropriations in the field, (6) purchase of ice and drinking water abroad, (7) payment of excise taxes on negotiable instruments abroad, and (8) procurement, by contract or otherwise, of services, supplies, and facilities, as follows: (i) maintenance, improvement, and repair of properties used for international information activities in foreign countries, (ii) fuel and utilities for Government-owned or leased property abroad, and (iii) rental or lease for periods not exceeding ten years of offices, buildings, ground, and living quarters, and the furnishing of living quarters to officers and employees engaged in international information activities abroad (22 U. S. C. 291).

(e) The provisions of the Department of State Appropriation Act, 1954, regarding (1) exchange of funds for payment of expenses in connection with the operation of information establishments abroad without regard to the provision of section 2651 of the Revised Statutes (31 U. S. C. 543), (section 103 of the General Provisions of the Department of State Appropriation Act, 1954), (2) payment of travel expenses outside the continental limits of the United States from funds available in the fiscal year that such travel is authorized and actually begins (section 104 of the General Provisions of the Department of State Appropriation Act, 1954), (3) granting authority, on the part of each information field office, to approve, with the concurrence of the Chief of Mission, use of Government-owned vehicles for travel under conditions described in section 105

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Dear Mr. Jones:

This is in reply to your request of December 18 for comments on the bill submitted by the Central Intelligence Agency "to amend the Central Intelligence Agency Act of 1949, as amended, and for other purposes."

It appears that it is the purpose of CIA to incorporate in its own legislation all of the authorities relating to various benefits and privileges provided for overseas Government personnel. This is contrary to one of the established objectives of this Administration; namely, to consolidate insofar as possible various existing authorities into single statutes to assure uniform applicability on a government-wide basis. An alternative treatment, which we believe would accomplish much the same purpose for CIA, is suggested later in this letter. With reference to the bill submitted, following are our comments on the individual sections which are within the area of interest of this office.

Section 1 adds to the definitions in the bill a definition of "abroad," to mean foreign areas, Trust Territories of the Pacific Islands, and bases leased by the United States in foreign areas, but excluding the Canal Zone and the Territories and possessions of the United States. This would answer certain objections made by this office to the language of the bill submitted to the 84th Congress since it would exclude employees in the Territories and possessions from certain of the benefits provided, particularly with reference to allowances, hospitalization, leave etc. On the other hand, it would seem to present certain problems insofar as CIA is concerned, since it would limit all the provisions under Section 3 of the draft legislation (Sec. 5 of the CIA Act) to the areas covered by the definition whereas certain of these authorities should not be so limited. These are the various travel and transportation authorities, storage expenses, leave travel, home leave provisions, etc. In view of our subsequent comments, CIA may want to reconsider this item.

Section 3 amends Section 5 of the CIA Act. The introductory statement of this section as amended would read "under such regulations as the Director may prescribe, the Agency, with respect to its officers and employees assigned abroad, may . . ." Subsections (a)(1), (2), (5), (6), and (9) relate to travel and transportation expenses for employees, dependents and effects, and expenses for storage of effects. These authorities should be available not only for employees assigned abroad as defined in Section 1 but should also be available for employees assigned anywhere outside the continental United States.

- 2 -

Subsections (a)(4) transportation of automobiles, (7) movement of employees, dependents and effects from posts where disturbed conditions constitute imminent danger to life and property, and (8) transportation of dependents for education purposes are identical with provisions in the Foreign Service Act. Such authorities should apply to all areas outside the continental United States, its Territories and possessions. It might be mentioned that with reference to transportation for education purposes, the language of the proposed Allowances bill specifically authorizes this provision for United States citizen employees in the Canal Zone even though other parts of that title of the bill do not cover Canal Zone employees.

Subsection 5(b) authorizes use of the appropriation current when travel or transportation begins for payment of all the expenses involved even though such travel or transportation is not completed until the next fiscal year. This authority is already available to CIA insofar as permanent change of station actions are concerned, and the amendment is to extend it to cover temporary duty travel as well.

Subsection 5(c) relates to leave. Subsection (1) is a modification of authority already available to CIA, to order return of employees to the United States, its Territories and possessions for leave purposes after two years continuous service abroad. In view of Section 5(e) which relates to payment of travel and transportation costs of individuals appointed in foreign countries and assigned elsewhere, it would seem that CIA would find it desirable either to utilize the authority contained in P. L. 737, 83rd Congress, with proper modification of the language of Subsection 5(a)(1); or to change the language of this subsection of the CIA Act to conform more nearly to P. L. 737 in order to be able to pay travel and transportation costs for such employees who want to return to their places of residence on leave.

Subsection 5(c)(2) relates to service of employees while in the continental United States on leave. This is copied from a similar provision in the Foreign Service Act, but we are unable to determine the purpose or necessity of the provision. It would seem that this could be adequately covered in agency regulations rather than in the legislation.

Subsection 5(c)(3) provides that transit time in connection with return to the United States, its Territories or possessions for leave purposes shall not be chargeable to leave. This provision is already available to CIA under Section 203(e) of the Leave Act P. L. 233, 82nd Congress. However, it occurs to us that if CIA has any substantial numbers of foreign nationals who are appointed in foreign countries and assigned to other countries for service, there might be a need for similar authority.

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travel by such employees in returning to places other than the continental United States, or its Territories and possessions. CIA might want to consider modifying the language of this subsection to avoid the present limitation.

Subsection 5(c)(4) extends the statutory home leave authority, now applicable to Foreign Service employees, to CIA employees. As stated by CIA, if proposed amendments to the Leave Act are enacted, there would be no need for the proposed section. There is no objection to inclusion of this provision in the CIA Act on an interim basis.

Subsection 5(d) covers various medical and hospitalization provisions. Subsection (d)(1), (2)(A), (2)(B), and (2)(C) are identical to the provisions now incorporated in the Foreign Service Act as amended by P. L. 828, 84th Congress, and the authorities should apply only to areas outside the United States, its Territories and possessions. Since these provisions are in line with provisions of the government-wide bill which is expected to be submitted to the next session of Congress, covering medical care provisions for overseas employees of the government, there is no objection to their inclusion in the CIA Act.

Subsection 5(d)(3) authorizes establishment of first aid stations and is identical to the authority available to the Secretary of State under the Foreign Service Act as amended. This office has no objection thereto, provided that the authority is not exercised if another United States government medical facility already exists at a post.

Subsection 5(d)(4) is based on Section 943 of the Foreign Service Act as amended, authorizing physical examinations of employees and dependents and the administration of inoculations and vaccinations. However, it is noted that CIA has not included applicants, and it would seem to us that it would be desirable to extend the authority to permit physical examinations for applicants as well as employees.

Subsection 5(e) is the same as Subsection 5(a)(7) of the present law, authorizing payment of travel and transportation costs for individuals appointed in foreign countries for assignment away from the place of residence at time of appointment.

Subsection 5(f) would include in the CIA Act basic authorities for payment of allowances and differentials, in place of the present provision which authorizes such payments in accordance with the provisions of certain cited sections of the Foreign Service Act. The language of the proposed legislation is based on but is not identical to present provisions of the Foreign Service Act as amended and the provisions of the proposed government-wide Allowances bill.

- 4 -

This office is strongly opposed to the proposed change since it is a move away from the Administration's policy of consolidation of basic authorities which should be uniform for all United States Government employees serving under like conditions. It is our belief that present authorities, by referring to applicable sections of the Foreign Service Act, are adequate for CIA and, pending government-wide legislation, assures maintenance of a maximum degree of uniformity in application. Insofar as differentials are concerned, CIA is covered in the same manner as are all other agencies, under 5 U.S.C. 118(h). There seems to be no reason for including such authority in the CIA Act. Such separate authority might lead to agency regulations which would provide different ground rules from those applicable to other agencies.

Differences in the CIA language from present or proposed allowance provisions are as follows: With reference to the temporary lodging allowance, the Allowances Bill would permit payment at termination only if expenses for temporary lodgings were in fact incurred, which restriction was omitted from the CIA language. CIA language retains language of the Foreign Service Act which would permit payment of temporary lodgings allowances "not in excess of the aggregate amount of per diem that would be allowable to such officer or employee for himself and the members of his family for such period if they were in travel status." This language was deleted from the Allowances Bill since it was felt that it might invite establishment of excess rates. Per diem rates include both lodging and subsistence, whereas the temporary lodging should cover only lodgings based on going hotel room rates. The temporary lodging allowance rate would, of course, be higher than the regular quarters allowance rate, but should be well below the per diem rate. It might be mentioned that the employee would continue to receive any cost of living allowances applicable to the post in addition to the temporary lodging allowance. Should the latter rate be based on per diem rates, which take into account certain high living costs, some duplication in payment of certain basic costs might occur.

With reference to cost of living allowances, CIA retained the language of the Foreign Service Act which authorizes payment of such allowances at foreign posts "where the cost of living is proportionately so high that allowances are necessary to enable the employee to carry on his work efficiently." Since this language does not specify the basis for determining when cost of living is proportionately too high, the language of this provision was changed in the Allowances Bill to require comparison with cost of living in Washington, D. C.

Section 6 adds a new section to the CIA Act regarding retirement provisions for CIA employees who serve abroad. This would provide that in computing creditable service for annuity purposes, each year of service performed by an employee abroad would be credited

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as one and one half years, and that each year of service at posts classified as unhealthful by the CIA Director would be credited as two years of service. It is further provided that the retirement ages prescribed in the Civil Service Retirement Act shall be lowered by the number of months of extra service granted under the preceding provision. A restriction is provided that voluntary retirement shall be allowed only with the approval of the Director, after age 50 with 20 years of actual service.

The section analysis states that the proposed provisions, permitting early retirement at full annuity, are analogous to provisions applicable to authorized investigative employees and Foreign Service Officers; that the demands of many agency positions and the tensions imposed upon employees doing the peculiar work required, combined with extremely unfavorable climatic and sanitary conditions in many foreign areas make such work most suitable for relatively young men; that after overseas service has ceased it may not be possible to place these employees in headquarters positions at attained grades; that the agency must be able to offer early retirement with an annuity which makes retirement economically feasible in order to be able to keep a young and vital work force to carry out its exacting activities by being able to offer younger employees reasonable opportunities for advancement to more responsible positions rather than filling such positions with older men whose greatest contributions are in the past.

While there appears to be a justification for better retirement provisions for some of the agency's overseas positions, it is our opinion that the present proposal is excessively generous. It is difficult to believe that all of the overseas CIA employees are subjected to the degree of tension and hazard described in the section analysis. It is more likely that many of them are concerned with fact-gathering and subjected to no more tension or hazard than employees of other agencies stationed at the same post who have somewhat similar responsibilities.

Attention is called to the fact that investigative people get no extra credit for any part of their service. The Retirement Act provides that subject to certain conditions, such employees are permitted to retire at age 50 after 20 years of service at full annuities computed at 2%. Foreign Service Officers likewise are not granted extra credit for service at posts involving extraordinarily difficult conditions unless they have waived payment of any applicable post differential in order to obtain such extra credit. Prior to amendment of the Foreign Service Act by P. L. 22, 84th Congress, Foreign Service Officers were not eligible for post differentials, but they were granted extra service credits of 6 months for each year of service at certain differential posts.

As proposed by CIA, its employees who serve abroad would be entitled both to any applicable post differentials and extra service credits which would double the actual time served at extremely difficult posts, and extra credits of six months for each year of service at any post abroad. With the increases in the annuity computation rates effected by P. L. 854, 84th Congress, which now provides that all service over 10 years be computed at 2%, CIA 's proposal would provide for its employees abroad retirement terms far more generous than are presently available to any other group of United States Government employees. This office cannot support such a proposal, but would suggest that CIA develop a proposal which would be more nearly comparable to the provisions applicable to investigative personnel, without provision for extra service credits unless developed along the lines now applicable to Foreign Service Officers.

Section 7 would increase from 15 to 35 the number of retired officers of the armed services who could be employed by CIA, to which this office has no objection.

Referring to our statement at the beginning of this letter, this office would again like to repeat that this legislation is contrary to the Administration's policy of consolidating existing authorities and we do not believe it should be submitted in its present form. As stated, we have prepared a suggested alternative for Section 5 of the CIA Act, which is attached, which we believe would accomplish the same purpose aimed at by the agency. It has the advantage of utilizing existing statutes as the basis for the agency's authorities and would automatically be amended as such existing authorities are amended or replaced by other legislation without the need to amend the CIA Act itself. We would like to suggest that CIA give serious consideration to language along these lines for Section 5 of their Act.

Sincerely,

Philip Young

Mr. Roger W. Jones
Assistant Director for Legislative Reference
Executive Office of the President
Bureau of the Budget
Washington, D. C.

Attachment

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T.D. 1-9-56

TRAVEL, ALLOWANCES, AND RELATED EXPENSES

SECTION 5(a). Under such regulations as the Director may prescribe, the Agency, with respect to its officers and employees assigned outside the continental United States, may utilize the following authorities, provided that any regulations issued by the Director shall be compatible with and to the extent practicable similar to regulations issued by the agency having regulatory authority under the basic statute cited:

(1) granting allowances to officers and employees assigned outside the continental United States, its Territories and possessions, in accordance with the provisions of Sec. 901 of the Foreign Service Act of 1946, as amended, or as it may hereafter be amended;

(2) payment of travel, transportation, and storage expenses in accordance with the provisions of Sec. 911 of the Foreign Service Act of 1946, as amended, or as it may hereafter be amended, including expenses incurred while traveling pursuant to orders issued by the Director in accordance with the provisions of Sec. 5(a)(3);

(3) order round trip travel of officers and employees and their dependents, upon completion of two years' continuous service outside the continental United States or as soon thereafter as possible, from posts of assignment outside the continental United States to the places of their actual residence at the time of appointment or transfer to such posts, for purposes of taking leave prior to serving another tour of duty in the same or some other post outside the continental United States; and the time actually and necessarily occupied in going to and

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from the place of residence named in the order covering travel, and such time as may be necessarily occupied in awaiting transportation, shall not be chargeable to leave;

(4) transportation of automobiles for or on behalf of employees assigned to posts outside the continental United States, its Territories and possessions, in accordance with the provisions of Sec. 913 of the Foreign Service Act as amended or as it may hereafter be amended;

(5) charge expenses in connection with travel of personnel, their dependents, and transportation of their household goods, personal effects, and automobiles to the appropriation for the fiscal year current when any part of either the travel or transportation begins pursuant to previously issued travel orders, notwithstanding the fact that such travel or transportation may not all be effected during such fiscal year, or the travel orders may have been issued during the prior fiscal year.

(6) loan of household equipment to employees stationed outside the continental United States, its Territories and possessions, in accordance with the provisions of Sec. 912 of the Foreign Service Act as amended or as it may hereafter be amended;

(7) the provisions of Sec. 203(f) of the Act of October 30, 1951, as amended (65 Stat. 679, 5 U.S.C. 2061), and as it may hereafter be amended, shall be applicable to officers and employees of the Agency, and such officers and employees shall be subject to the limitations as to the accumulation of leave applicable to officers and employees in the Foreign Service of the United States under the Department of State

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as provided in Sections 203(c) and (d) of the Act of October 30, 1951, as amended (65 Stat. 679, 5 U.S.C. 2061), and as it may hereafter be amended;

(8) payment of medical care and hospitalization expenses in accordance with the provisions of Sections 941, 942, and 943 of the Foreign Service Act of 1946, as amended or as it may hereafter be amended;

(9) pay the costs of travel of new appointees and their dependents, and the transportation of their household goods and personal effects, from places of actual residence in foreign countries at time of appointment to places of employment and return to their actual residences at the time of appointment or a point not more distant: Provided, That such appointees agree in writing to remain with the United States Government for a period of not less than twelve months from the time of appointment. Violation of such agreement for personal convenience of an employee or because of separation for misconduct will bar much return payments and, if determined by the Director or his designee to be in the best interests of the United States, any money expended by the United States on account of such travel and transportation shall be considered as a debt due by the individual concerned to the United States.

5 (b) In administering the authorities provided under Section 5(a) of this Act, the Director may designate individual employees or groups of employees who are foreign nationals and who, by reason of employment by the Agency in certain specified positions outside the continental United States, shall be granted any or all of the benefits and

- 4 -

privileges covered under Sec. 5(a) without regard to the provisions of any other laws which restrict the payment or granting of such benefits and privileges to employees of the United States Government who are citizens of the United States.

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FOREIGN EMPLOYEES

CIA has no overt legislation to take care of its foreign employees.

Bureau of the Budget has inquired re their proposed Foreign Employees Personnel Act. We sent comments to Bureau of the Budget asking that CIA be exempted from this Act in order to protect against special situations.

CIA seeks legislation of general type in 21 March 1957 giving discretion to apply Foreign Service Act allowance.

ER 7-8729

1 February 1956

Mr. Roger W. Jones
Assistant Director for
Legislative Reference
Bureau of the Budget
Washington 25, D. C.

Dear Mr. Jones:

I refer to your letter of 7 December 1955, requesting the views of this Agency with respect to a draft bill entitled "Foreign Employees Personnel Act of 1956."

The Central Intelligence Agency is in accord with the objectives of this proposed legislation, and is very much interested in its progress and ultimate disposition. As you are aware, this Agency employs a considerable number of foreign nationals, at home and abroad.

A matter of major concern which we have noted in this proposed bill is its possible relationship to the current legislative provisions under which this Agency operates. Specifically, we are concerned with the repeal provision, Section 18, which would modify to conform with the proposed bill all laws or parts of laws inconsistent with it. Such a provision could be construed to modify the broad authority granted to the Director of Central Intelligence under basic CIA legislation, and although through invocation of the Director's special authorities, such as his duty to protect intelligence sources and methods, the Agency might avoid the undesirable effect of this section, it would be preferable to have a specific exemption written into the Act. The addition of language similar to that used for this purpose in the Federal Property and Administrative Services Act of 1949 (P.L. 81-2, 81st Congress) is recommended. Section 502(d)(17) of that Act states that:

Nothing in this Act shall impair or affect any authority of the Central Intelligence Agency.

It is impossible to deal in this memorandum with the specific examples of situations in which such an exemption might have to be applied. The nature of the employment relationships with foreign nationals who work for this Agency is varied according to a number of different types of situations with which we must deal. In addition to the obvious security problems with which we are faced, certain provisions of this proposed bill requiring reports, the availability of statistics on local employment standards in certain foreign areas, etc., would create serious administrative problems in attempting to comply with certain provisions of this Act. Although the Agency would attempt to comply with the letter and spirit of this legislation wherever practicable, we feel that the exemptive provision recommended above is essential to this Agency.

In the event that further detail is desired in support of our recommendation for the above provision, we will be happy to supply such detail at your convenience. In the event that our proposal for an exemption is acceptable to the Executive Branch, we will continue to have an active interest in the disposition of the specific provisions of this proposed bill, and in any regulations which are established for its implementation following passage by the Congress.

In addition to the above comments, we offer specific comments on particular sections of the bill as follows:

Section 4(b). Presumably the term locally employed means employed in the same country in which the employee holds citizenship or of which he is a native or permanent resident. This is not entirely clear, however, in the wording of the section. It is also noted that the application of this to expatriates and persons having dual citizenship might present difficult administrative situations. It is our impression that there is no commonly accepted definition of the word expatriate.

Section 4(c). We can foresee possible political implications of the requirement set forth in this section. Considering the liberal proviso in the second section allowing waiver of this requirement, we suggest that it might be preferable to delete the section entirely. This is a matter on which the Department of State will undoubtedly have more definitive views.

Section 5. It is not made clear whether the term public interest in the first sentence refers to the United States or to local public interest. We assume the former, but suggest that some clarification of language may be desirable.

Section 5(i). We would suggest the desirability of adding the words "or as part of compensation" just before the phrase "without regard to the actual costs." We can foresee situations in which it might be administratively desirable to include sums for lodging and meals in computing the compensation of employees.

Section 8(a). The language and in conformity with the Veterans' Preference Act where applicable would cause a number of administrative problems. The proposed bill establishes within itself standards for separations and suspensions. We, therefore, see no particular reason for making the lengthy procedures required for separation under the Veterans' Preference Act applicable to personnel hired under the authority of this proposed bill, and, accordingly, suggest a clause excluding the applicability of that Act.

Section 11(b). This section appears somewhat restrictive in that it would apply a special schedule of retirement benefits to all non-U. S. citizen employees. Very frequently foreign employees who reside in the United States, and are accustomed to United States living standards, are employed by Federal agencies, and it would seem equitable that such employees should be entitled to retirement benefits according to U. S. standards. It is therefore suggested that such a special and probably reduced schedule of retirement benefits should be applicable only to non-resident alien employees.

Section 12(d). The sectional analysis of this section contains a parenthetical statement indicating that the section does not authorize per diem. We believe that unless there are serious policy objections, there should be an authorization for the payment of per diem while in a travel status to and from the point at which the home leave is to be taken.

Section 13(b). We believe that this section, although desirable, might tend to cause embarrassment unless similar authorities are provided for treatment and transportation of United States citizens, as we are proposing in our own career legislation. Although as a technical legal matter, the words "on a basis comparable to that under which such care is provided for U. S. citizen employees and their dependents" would provide protection against inequities in this regard, the existence of this language in a statute, unless accompanied by similar language in statutes applicable to U. S. citizen employees and their dependents, might cause considerable embarrassment to the Government.

We note that this bill makes no provision for educational allowances for foreign employees who are located in foreign countries other than

their countries of residence or recruitment. It is suggested that consideration be given to extending this bill to provide such benefits to this category of local employees.

Sincerely,

25X1A


Legislative Counsel

Cleared in substance by:

Director of Personnel Date

Office of General Counsel Date

Deputy Assistant Director for Operations Date

IG:NSP:blc:fm

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 - 1 - DAD/O
 - 2 - Leg. Counsel

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MEDICAL CARE AND TRAVEL

CIA has Statutory Authority

FOIAB5

CIA has adopted per General Counsel Memo of 21 September 1956 approved by Acting DCI and following consultation with General Counsel ~~to~~ *with* Comptroller General (provided we pursue our requests for legislation; and payments even in case of vouchered personnel, are to be out of confidential funds):

Foreign Service Act Amendments of 1956

Section 941(b): Payment of hospitalization or treatment for dependents located abroad of that portion exceeding \$35.00.

Section 942(a): Pay travel of dependents to hospital and return.

Pending regulatory issuance, this was published to the field in Book Dispatch No. 184, dated 13 February 1957.

CIA seeks legislation (draft of 21 March 1957):

Foreign Service Act Amendments of 1956

Section 941(a): which gives treatment and travel to employee ~~while located~~ *for injury or illness incurred* abroad. This would allow treatment of TDY employee who gets ill abroad or treatment in U.S. of residuals of illness incurred by PCS employee abroad.

Section 942(b): which adds "physician or other medical personnel" to PL 110 § 5(a)(5)(B) - we already do this *this not specifically provided for in PL 110.*

Section 943 : examinations for applicants, employees and their dependents - we already do this.